



# Landfill Disposals Tax (Wales) Act 2017

2017 anaw 3

## PART 4

### TAXABLE DISPOSALS MADE AT PLACES OTHER THAN AUTHORISED LANDFILL SITES

#### CHAPTER 1

##### TAX CHARGEABLE ON TAXABLE DISPOSALS

#### **46 Calculation of tax chargeable on taxable disposal**

- (1) This section applies to a taxable disposal of material made at a place that is not, and does not form part of, an authorised landfill site.
- (2) The amount of tax chargeable on the disposal is to be calculated by multiplying the taxable weight of the material in tonnes by the unauthorised disposals rate.
- (3) The taxable weight of the material is the weight of the material determined by WRA using any method it thinks appropriate.
- (4) The unauthorised disposals rate is the rate per tonne prescribed for the purposes of subsection (2) in regulations.
- (5) Regulations under subsection (4) may prescribe different rates for different descriptions of material.

## CHAPTER 2

### PROCEDURE FOR CHARGING TAX

#### 47 The charging condition

- (1) For the purposes of this Chapter, a person meets the charging condition in respect of a taxable disposal if the person—
  - (a) made the disposal, or
  - (b) knowingly caused or knowingly permitted the disposal to be made.
- (2) For the purposes of subsection (1)(b)—
  - (a) a person who, at the time of the disposal, controlled, or was in a position to control, a motor vehicle or trailer from which the disposal was made is to be treated as having knowingly caused the disposal to be made, and
  - (b) a person who, at the time of the disposal, was the owner, lessee or occupier of the land where the disposal was made is to be treated as having knowingly permitted the disposal to be made,unless the person satisfies WRA or (on appeal) the tribunal that the person did not knowingly cause or knowingly permit the disposal to be made.
- (3) Regulations may make further or different provision about—
  - (a) circumstances in which a person is to be treated as meeting (or not meeting) the charging condition, or
  - (b) matters that are to be taken into account in determining whether a person meets (or does not meet) that condition.
- (4) The regulations may amend any enactment relating to the tax.

#### 48 Power to issue preliminary notice

- (1) WRA may issue a preliminary notice to a person if it appears to WRA that—
  - (a) a taxable disposal has been made at a place that is not, and does not form part of, an authorised landfill site, and
  - (b) the person meets the charging condition in respect of the disposal (see section 47).
- (2) A preliminary notice must—
  - (a) identify the land where the taxable disposal appears to have been made;
  - (b) describe the circumstances of the disposal and the nature of the material disposed of, so far as they are known to WRA;
  - (c) state when the disposal appears to have been made, and if WRA has estimated when the disposal was made, explain how WRA has made the estimate;
  - (d) explain why WRA thinks that the person to whom the notice is issued meets the charging condition in respect of the disposal;
  - (e) state the amount of the proposed charge to tax on the disposal;
  - (f) explain how that amount has been calculated, including the method used by WRA to determine the taxable weight of the material disposed of.
- (3) A preliminary notice must also inform the person to whom it is issued—

- (a) that a notice will be issued under section 49 after the end of 45 days beginning with the day on which the preliminary notice is issued,
  - (b) that the person may request that WRA extend that period, and
  - (c) that the person may make written representations to WRA at any time before a notice is issued under section 49.
- (4) A single preliminary notice may relate to more than one taxable disposal or to an unascertained number of taxable disposals.
- (5) WRA may not issue a preliminary notice more than 4 years after WRA becomes aware of any taxable disposal to which the notice relates.
- (6) Nor may WRA issue a preliminary notice more than 20 years after the time when it appears to WRA that any taxable disposal to which the notice relates was made.

#### **49 Power to issue charging notice after issuing preliminary notice**

- (1) This section applies where—
- (a) WRA has issued a preliminary notice to a person under section 48, and
  - (b) the period of 45 days beginning with the day on which the notice was issued, or any longer period agreed by WRA, has ended.
- (2) WRA must either—
- (a) issue a charging notice to the person in respect of any of the disposals to which the preliminary notice relates, or
  - (b) issue a notice to the person stating that it does not intend to issue a charging notice to the person in respect of those disposals.
- (3) WRA may issue a charging notice to a person only if satisfied that—
- (a) a taxable disposal has been made at a place that is not, and does not form part of, an authorised landfill site, and
  - (b) the person meets the charging condition in respect of the disposal.
- (4) In deciding whether to issue a charging notice to a person, WRA must have regard to any written representations made by the person.
- (5) A charging notice must—
- (a) give details of the taxable disposal or disposals to which the notice relates;
  - (b) explain why WRA is satisfied that the person to whom the notice is issued meets the charging condition in respect of the disposal or disposals;
  - (c) state the amount of the charge to tax on the disposal or disposals;
  - (d) explain how that amount has been calculated, including the method used by WRA to determine the taxable weight of the material disposed of;
  - (e) inform the person of the rights to request a review and to appeal against the notice under Part 8 of TCMA.

#### **50 Power to issue charging notice without issuing preliminary notice**

- (1) This section applies where WRA—
- (a) is satisfied that a person meets the charging condition in respect of a taxable disposal made at a place that is not, and does not form part of, an authorised landfill site, and

- (b) thinks that there is likely to be a loss of tax if it proceeds under sections 48 and 49.
- (2) WRA may issue a charging notice to the person without first issuing a preliminary notice.
- (3) A charging notice issued under this section must include—
  - (a) the information specified in section 49(5), and
  - (b) WRA’s reasons for issuing the notice without first issuing a preliminary notice.
- (4) WRA may not issue a charging notice under this section more than 4 years after WRA becomes aware of any taxable disposal to which the notice relates.
- (5) Nor may WRA issue a charging notice under this section more than 20 years after the time when it appears to WRA that any taxable disposal to which the notice relates was made.

## **51 Payment of tax**

- (1) A person to whom a charging notice is issued must pay the amount of tax charged by the notice.
- (2) The tax must be paid before the end of the period of 30 days beginning with the day on which the notice is issued.
- (3) If charging notices are issued to more than one person in respect of the same taxable disposal, all of those persons are jointly and severally liable for the amount of tax charged on the disposal.

## **52 Power to make further provision**

- (1) Regulations may make further or different provision about—
  - (a) the procedures for issuing preliminary notices and charging notices;
  - (b) the payment of an amount of tax charged by a charging notice;
  - (c) any other matters relating to or arising from the charging or payment of an amount of tax under this Chapter.
- (2) The regulations may amend or apply (with or without modifications) any enactment relating to the tax.

## **53 Late payment interest**

- (1) Section 157 of TCMA (late payment interest on devolved taxes) (substituted by paragraph 58 of Schedule 23 to LTTA) is amended as follows.
- (2) After subsection (1) insert—
  - “(1A) This section also applies to an amount of landfill disposals tax charged by a charging notice issued under section 49 or 50 of LDTA.”
- (3) In subsection (3), after paragraph (b) insert—

- “(c) in the case of an amount falling within subsection (1A), the date immediately after the end of the period specified in section 51 of LDTA.”